

**REMARKS/ARGUMENTS**

In view of the remarks herein, favorable reconsideration and allowance of this application are respectfully requested. Claims 1-3 and 5-16 are pending for further examination.

Applicant notes that box 12(a)(1) is not checked on form PTOL-326. Applicant requests that Examiner confirm that all certified copies of the priority documents have been received.

Claims 1-3, 7-10 and 12-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Crowley (U.S. Pat. 6,096,962) in view of Koguchi (U.S. Pat. 5,148,419) and Smith (U.S. App. Pub. 2004/0017044). Applicant submits that the applied references, alone or in combination, do not teach or suggest all elements of at least the independent claims.

For example, claim 1 recites, *inter alia*, “a continuous counter for counting the number of times the same phrase has been selected” and “randomly selecting one kind of the phrase data stored in said phrase data storage area including incrementing said continuous counter when the phrase data selected last time and the phrase data selected this time agree and re-selecting the phrase data when a count value of said continuous counter is larger than a predetermined value.”

The Office Action concedes that Crowley fails to teach the above limitation, and introduces Smith to compensate for this deficiency (Applicant notes that the above limitation appears nowhere in Koguchi, either). Smith, however, does not teach or

suggest “a continuous counter for counting the number of times the same phrase has been selected” and “randomly selecting one kind of the phrase data stored in said phrase data storage area including incrementing said continuous counter when the phrase data selected last time and the phrase data selected this time agree and re-selecting the phrase data when a count value of said continuous counter is larger than a predetermined value.”

While Applicant agrees that Smith does teach a counter [0020], this is a counter to keep track of a score. Applicant has claimed “incrementing a counter when the phrase data selected last time and the phrase data selected this time agree.” Smith’s counter, on the other hand, is incremented when a correct answer is given. There is no teaching or suggestion, however, that this incrementation has anything to do with a previous selection. Determining the correctness of the answer (and whether or not to increment the counter) will be based on a comparison to a predetermined correct answer, and will be unrelated to a previously selected answer (e.g., if the correct answer to question 2 is “b”, it will be because “b” corresponds to the correct answer, not because “b” was selected as the answer to question 1). Thus, Smith does not teach or suggest “incrementing a counter when the phrase data selected last time and the phrase data selected this time agree.”

Further, even if Smith did teach “incrementing a counter when the phrase data selected last time and the phrase data selected this time agree,” Applicant has also claimed “re-selecting the phrase data when a count value of said continuous counter is larger than a predetermined value.” This is not taught or suggested in Smith or any of the other references.

Applicant notes that the Office Action attempts to correspond various teachings of Smith to portions of the phrase “incrementing said continuous counter when the phrase data selected last time and the phrase data selected this time agree and re-selecting the phrase data when a count value of said continuous counter is larger than a predetermined value.” According to the Office Action, “incrementing said continuous counter” corresponds to *keeping score*. Also, according to the Office Action, “when the phrase data selected last time and the phrase data selected this time agree” corresponds to *correct answers*. Conspicuously absent from the analysis, however, is any indication of to what “and re-selecting the phrase data when a count value of said continuous counter is larger than a predetermined value” allegedly corresponds.

Applicant has not merely claimed counting the number of times “when the phrase data selected last time and the phrase data selected this time agree,” but Applicant has also claimed “re-selecting the phrase data when a count value of said continuous counter is larger than a predetermined value.” That is, when the counter reaches a threshold, a new phrase is selected. There is no such teaching or suggestion in Smith. Indeed, since the selection of an answer in Smith is alleged to correspond to the selection of a phrase in the claims, this would mean that, once a certain score is reached in Smith, a different answer would be selected. This is clearly not what Smith intended.

For at least these reasons, Applicant submits that claim 1 is allowable over the prior art of record. Independent claims 8-10 contain similar limitations, and should be allowable at least for the same reasons. Claims 2-3, 7 and 12-16 should be allowable

based at least on their dependency from allowable independent claims.

Claims 5 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Crowley in view of Koguchi and Smith and further in view of Ishikawa et al. (U.S. App. Pub. 2001/0016510). Ishikawa does not cure the noted deficiencies of the Crowley/Koguchi/Smith references, however. Thus, claims 5 and 6 should be allowable based at least on their dependency from allowable claim 1.

For at least the foregoing reasons, Applicant respectfully submits that the invention defined by the amended claims herein is not taught or suggested by the prior art of record. Thus, withdrawal of the rejections and allowance of this application are earnestly solicited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: /Bernard Tomsa/

Bernard Tomsa  
Reg. No. 60,121

BPT  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100